

REMARKS

This is in response to the Office Action mailed on March 4, 2004, and the references cited therewith.

Claims 1-3, 23, 26, 33-34 are amended; as a result, claims 1-38 are now pending in this application.

Claim Objections

The Examiner has objected to claims 1-2, 23, and 33-34 based on some definite and indefinite article usage and the like. These claims are amended above according to the instructions of the Examiner and therefore these rejections are no longer appropriate.

§102 Rejection of the Claims

Claims 1-3, 5, 8-9, 11-13, 18-19, 24-31, 33 and 35-38 were rejected under 35 USC § 102(e) as being anticipated by Downs et al. (U.S. 6,574,609). It is of course fundamental that in order to sustain an anticipation rejection that each every element or step in the rejected claims must be taught or disclosed in the cited reference. Here, Downs lacks teachings and disclosure which is recited in each of the Applicants' amended independent claims 1, 3, 26, and 33.

With respect to Applicants' amended independent claim 1, the Examiner asserts that the end user device 109 of Downs is a deployment enhancement when Applicants' non-amended claim 1 is broadly interpreted. Applicants have now amended independent claim 1, such that a deployment enhancement is "one or more devices that cache portions of the multimedia digital content." Moreover, the "viewing system" is "separate from the deployment enhancements." Applicants assert that this amendment to claim 1 now clearly distinguishes it over the teachings of Downs, since in downs there are no deployment enhancements that are separate and distinct from the end user device and since the end user device does not cache portions of the data. Therefore, the rejection with respect to independent claim 1 and its dependent claim 2 should be withdrawn.

With respect to Applicants' amended independent claim 3, the Examiner asserts that the digital content stores of Downs are the same as Applicants' movie management system when claim 3 is broadly interpreted. Applicants have amended independent claim 3 such that the

movie management system now “interacts with one or more caching devices for delivering encrypted digital content to the viewing system.” As recited above, with respect to the deployment enhancements of independent claim 1, Downs does not teach or disclose a movie management system that interfaces with caching devices that are separate from the viewing system. In fact, Downs does not perform caching of digital content. Thus, the rejections with respect to claims 3 and its dependent claim 5, 8-9, 11-13, 18-19, and 24-25 should be withdrawn.

With respect to Applicants’ amended independent claim 26, Applicants have amended claim 26 such that the movie management system now recites a limitation that it interacts “with deployment enhancements that perform caching and the deployment enhancements are separate from the viewing system.” As elaborated on above with respect to amendment independent claims 1 and 3, there is no teaching or even a suggestion of a teaching in Downs where the digital content stores interact with deployment enhancements that perform caching. Therefore, the rejections with respect to independent claim 26 and its dependent claims 27-31 should be withdrawn.

With respect to Applicants’ amended independent claim 33, Applicants have now amended independent claim 33 to recite that “at least a portion of the digital content is supplied from cache of a caching device during the download.” Again, this limitation on the download for caching is not taught or suggested in the Downs reference. Correspondingly, the rejection with respect to independent claim 33 and its dependent claims 35-38 should be withdrawn.

§103 Rejection of the Claims

Claims 4 and 32 were rejected under 35 USC § 103(a) as being unpatentable over Downs et al. in view of Candelore (U.S. 6,057,872). Claim 4 is dependent from amendment independent claim 1 and claim 32 is dependent from amended independent claim 26. Thus, these claims are allowable in view of the remarks and amendments with respect to amended independent claims 1 and 26. Correspondingly, the rejections of claims 4 and 32 should be withdrawn.

Claims 6 and 22-23 were rejected under 35 USC § 103(a) as being unpatentable over Downs et al. Claim 6 is dependent from amended independent claim 1 and claims 22-23 are

dependent from amended independent claim 3. Thus, for the remarks and amendments presented above with respect to amended independent claims 1 and 3 these claims should be allowed and their rejections withdrawn.

Claims 7 and 10 were rejected under 35 USC § 103(a) as being unpatentable over Downs et al. in view of Peterson, Jr. (U.S. 5,857,020). Claims 7 and 10 are dependent from amended independent claim 3. Thus, for the remarks and amendment presented above with respect to amended independent claim 3 these claims should be allowed and their rejections withdrawn.

Claims 14-16 and 20 were rejected under 35 USC § 103(a) as being unpatentable over Downs et al. in view of Hendricks et al. (U.S. 5,798,785). To sustain an obviousness rejection, each and every element in the proposed combination of references must teach or disclose each and every element or step of the rejected claims.

The Examiner asserts that Hendricks teaches caching techniques with multimedia data and as an example FIG. 2 is recited by the Examiner in support of this contention. Applicants respectfully disagree with this conclusion. Applicants have carefully reviewed the figures (including FIG. 2) and the disclosure of Hendricks and cannot find a single teaching or reference to caching. At best Hendricks teaches some form of streaming, but streaming is not caching. Moreover, even assuming Hendricks did teach caching the caching is done by the local devices and not by external caching devices, which are separate and distinct from local systems (e.g., the viewing system).

That is Applicants' amended independent claim 3 recites caching devices that are separate from the viewing system. FIG. 2 of Hendricks cannot be used to support the Examiner's present contention regarding caching because the description for FIG. 2 does not mention or disclose caching at all, data is compressed and streamed but not cached and caching is not supported anywhere in the Hendricks reference. The Examiner cannot use improper hindsight in view of reading Applicants' disclosure to read caching into Hendricks and interpret the figures of Hendricks to support caching, where the description of the figures and the reference labels do not even remotely suggest caching. Applicants respectfully assert that this is

improper hindsight and not permissible for purposes of an obviousness rejection. Hendricks completely lacks any caching teaching and there is not suggestion of teaching. One of ordinary skill in the art would not have modified Downs with caching after reading and comprehending Hendricks, since Hendricks does not even remotely teach caching.

Applicants would also like to point out the importance of performing caching on caching devices that are separate from the viewing system, as is recited in Applicants' amended independent claim 3. First, servers, switches, routers, hubs, *etc.* can deploy caching with caching devices for a plurality of local viewing systems. Second, the local viewing systems do not need cache management software or hardware to support caching. Third, the external caching devices can have trusted or more secure relationships with the digital content providers. These benefits are in addition to benefits typically associated with caching, such as data acceleration. Thus, even assuming local caching was available in Hendricks (which it is not) it is not caching that can be handled by devices that are separate from the local devices and does not provide the benefits of Applicants' invention. Accordingly, the rejections with respect to claims 14-16 and their amended independent claim 3 should be withdrawn.

Claim 17 was rejected under 35 USC § 103(a) as being unpatentable over Downs et al. in view of Slotznick (U.S. 6,011,537). Claim 17 is dependent from amended independent claim 3. Thus, for the remarks and amendment presented above with respect to amended independent claim 3 this claim should be allowed and the rejection withdrawn.

Claims 21 and 34 were rejected under 35 USC § 103(a) as being unpatentable over Downs et al. in view of Casagrande et al. (U.S. 6,049,892). Claim 21 is dependent from amended independent claim 3 and claim 34 is dependent from amended independent claim 26. Thus, for the remarks and amendments presented above with respect to amended independent claims 3 and 26 these claims should be allowed and the rejections withdrawn.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at (513) 942-0224 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 3rd day of June, 2004.

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Signature